

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1420 be amended to read as follows:

- 1 Page 6, between lines 18 and 19, begin a new paragraph and insert:
- 2 "SECTION 2. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE AS
- 3 A **NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
- 4 **1, 2001]:**
- 5 **Chapter 9. School Option Income Tax**
- 6 **Sec. 1. The following definitions apply throughout this chapter:**
- 7 (1) "Adjusted gross income" has the meaning set forth in
- 8 IC 6-3-1-3.5.
- 9 (2) "Department" refers to the department of state revenue.
- 10 (3) "Public question" has the meaning set forth in IC 3-5-2-41.
- 11 (4) "Resident taxpayer", as it relates to a particular school
- 12 corporation, means an individual who resides in that school
- 13 corporation. An individual resides in the school corporation
- 14 in which the individual:
- 15 (A) maintains a home, if the individual maintains only one
- 16 (1) home in Indiana;
- 17 (B) is registered to vote;
- 18 (C) registers the individual's personal automobile; or
- 19 (D) spends the majority of the individual's time in Indiana
- 20 during the taxable year in question.
- 21 (5) "School corporation" has the meaning set forth in
- 22 IC 36-1-2-17.
- 23 (6) "School district" has the meaning set forth in IC 3-5-2-47.
- 24 (7) "School year" means a twelve (12) month period

beginning July 1 of a year.

Sec. 2. (a) Using the procedures described in this chapter, a governing body of a school corporation may adopt an ordinance to:

- (1) impose a school option income tax in the school district;
- (2) increase a school option income tax rate;
- (3) decrease the school option income tax rate, subject to section 6 of this chapter; or
- (4) rescind the school option income tax, subject to section 5 of this chapter.

An ordinance described in this subsection may be adopted regardless of whether the school corporation has adopted a local option income tax for education under IC 6-3.5-8.

(b) An ordinance adopted in a particular year under this chapter to:

- (1) impose a school option income tax; or
- (2) increase or decrease the school option income tax rate;

is effective January 1 of the year immediately following adoption of the ordinance. An ordinance adopted under this chapter to rescind a school option income tax is effective upon its adoption.

(c) The school option income tax may not be imposed at or increased to a rate that exceeds one percent (1%). Each increase or decrease in the school option income tax rate must be in multiples of one-tenth of one percent (0.1%). The governing body of a school corporation may impose the tax or increase or decrease the tax rate only as provided in sections 3 and 6 of this chapter.

(d) The governing body of a school corporation shall give notice of an action under this chapter to the state board of tax commissioners and the department not more than five (5) business days after adopting an ordinance under this chapter.

Sec. 3. (a) Before a governing body of a school corporation may adopt an ordinance under this chapter to impose a school option income tax or to increase the school option income tax rate to a rate higher than the rate at which the school option income tax was imposed, the governing body shall cause a local public question to be placed on a general election ballot in accordance with the procedure described in IC 3-10-9.

(b) The local public question must include the text of the proposed ordinance and must specify:

- (1) whether the governing body of a school corporation seeks to impose a school option income tax or to increase the school option income tax rate to a rate higher than the rate at which the school option income tax was imposed; and
- (2) the rate at which the tax will be imposed or to which it will be increased.

(c) The governing body of a school corporation may adopt an ordinance under this chapter to impose a school option income tax or to increase the school option income tax rate to a rate higher

than the rate at which the school option income tax was imposed only if a majority of the electorate participating in the general election votes to adopt the ordinance. If a majority of the electorate participating in the general election votes to adopt the ordinance, the governing body of the school corporation shall adopt the ordinance before December 1 of the year in which the local public question was placed on the ballot.

(d) The governing body of a school corporation may adopt an ordinance under this chapter to:

- (1) rescind a school option income tax;
- (2) decrease the school option income tax rate; or
- (3) increase the school option income tax rate to a rate lower than or equal to the rate at which the school option income tax was originally imposed under subsection (c);

at any time and without notice.

Sec. 4. The governing body of a school corporation shall impose a school option income tax on the adjusted gross income of resident taxpayers residing in the school corporation effective January 1 of the year following the general election in which a majority of the electorate participating in the general election voted to adopt an ordinance to impose a school option income tax under the procedure set forth in section 3 of this chapter.

Sec. 5. (a) The school option income tax imposed under this chapter by a governing body of a school corporation remains in effect until rescinded by the governing body.

(b) Subject to subsection (c), a governing body of a school corporation may rescind the school option income tax by passing an ordinance to rescind the tax. The ordinance must be passed after July 1 but before December 1 of a year. The governing body may rescind the tax without causing a public question to be placed on a general election ballot.

(c) If the governing body of a school corporation has pledged school option income tax revenue for any purpose permitted by statute, the governing body may not rescind a school option income tax or take any special action that would result in the school corporation receiving a distributive share under section 10 of this chapter smaller than the distributive share to which the school corporation was entitled when it pledged the school option income tax revenue.

Sec. 6. (a) Subject to subsection (b), a governing body of a school corporation may decrease the school option income tax rate at any time and without notice.

(b) A governing body of a school corporation may not decrease the school option income tax if the school corporation has pledged the school option income tax for any purpose permitted by IC 5-1-14 or any other statute.

Sec. 7. This section applies to a resident taxpayer whose school

option income tax rate is changed due to an action taken by the governing body of a school corporation under section 4 of this chapter. The resident taxpayer's school option income tax rate for that school corporation and that taxable year is the rate determined in the last STEP of the following STEPS:

STEP ONE: Multiply the number of months in the taxpayer's taxable year that precede January 1 by the rate in effect before the rate change.

STEP TWO: Multiply the number of months in the taxpayer's taxable year that follow December 31 by the rate in effect after the rate change.

STEP THREE: Divide the sum of the amounts determined under STEPS ONE and TWO by twelve (12).

Sec. 8. (a) This section applies to a taxpayer who, in a taxable year:

(1) resides in a school corporation whose governing body adopts an ordinance to impose a school option income tax during that taxable year; or

(2) moves into a school corporation that has adopted an ordinance to impose a school option income tax.

(b) The amount of school option income tax that a taxpayer described in subsection (a) owes for that taxable year equals the product of:

(1) the amount of school option income tax the resident taxpayer would owe if the tax had been imposed on the taxpayer during the resident taxpayer's entire taxable year; multiplied by

(2) a fraction, the numerator of which equals the number of days in the resident taxpayer's taxable year during which the school option income tax was in effect, and the denominator of which equals the total number of days in the resident taxpayer's taxable year.

Sec. 9. (a) A special account within the state general fund shall be established for each school corporation that adopts a school option income tax. Any revenue derived from the imposition of the school option income tax by the governing body of a school corporation shall be deposited in that school corporation's account in the state general fund.

(b) Any income earned on money held in an account under subsection (a) becomes a part of that account.

(c) Any revenue remaining in an account established under subsection (a) at the end of a fiscal year does not revert to the state general fund.

(d) The revenue a school corporation receives under this chapter may be used to fund any lawful purpose of the school corporation. The revenue a school corporation receives under this chapter is not part of the school corporation's previous year

1 revenue as defined in IC 21-3-1.7-3.1.

2 **Sec. 10. (a)** Revenue derived from the imposition of a school
3 option income tax shall be distributed in the manner prescribed by
4 this section to the school corporation whose governing body
5 imposed the tax. The amount that is to be distributed to a school
6 corporation during a calendar year equals the amount of school
7 option income tax revenue that the department, after reviewing the
8 recommendation of the budget agency, estimates will be received
9 from that school corporation during the school year.

10 **(b)** This subsection applies to a school corporation that has
11 adopted an ordinance to impose a school option income tax or to
12 increase or decrease the school option income tax rate (referred to
13 in this subsection as the "adopting school corporation"). Before
14 July 1 of each calendar year for which a school option income tax
15 has been imposed, the department shall review the
16 recommendation of the budget agency and shall estimate and
17 certify to the governing body of the adopting school corporation
18 and to the auditor of the county in which the adopting school
19 corporation is located the amount of school option income tax
20 revenue that will be collected from that school corporation during
21 the school year.

22 **(c)** This subsection applies to a school corporation that has
23 caused a local public question described in section 3 of this chapter
24 to be placed on a general election ballot but whose governing body
25 has not adopted an ordinance to impose a school option income tax
26 or to increase or decrease the school option income tax rate
27 (referred to in this subsection as the "electing school corporation").
28 Before December 15 of a year in which a local public question
29 described in section 3 of this chapter is placed on a general election
30 ballot, the department shall review the recommendation of the
31 budget agency and estimate the amount of school option income tax
32 revenue that will be collected from the electing school corporation
33 during the period beginning on the date when the school option
34 income tax is imposed and ending on June 30 of the year in which
35 the school option income tax is imposed. The department shall
36 multiply this amount by two (2) and certify the doubled amount to
37 the governing body of an electing school corporation and to the
38 county auditor of the county in which the electing school
39 corporation is located.

40 **(d)** The amount certified under subsection (b) or (c) is the school
41 corporation's certified distribution for the immediately succeeding
42 calendar year. The amount certified may be adjusted under
43 subsection (e) or (f).

44 **(e)** The department may certify to an adopting school
45 corporation an amount that is greater than the estimated twelve
46 (12) month revenue collection if the department, after reviewing
47 the recommendation of the budget agency, determines that there

1 will be a greater amount of revenue available for distribution from
 2 the school corporation's account established under section 9 of this
 3 chapter.

4 (f) The department may certify an amount less than the
 5 estimated twelve (12) month revenue collection if the department,
 6 after reviewing the recommendation of the budget agency,
 7 determines that a part of those collections needs to be distributed
 8 during the current calendar year so that the school corporation
 9 will receive its full certified distribution for the current calendar
 10 year.

11 (g) One-twelfth (1/12) of each adopting school corporation's
 12 certified distribution for a school year shall be distributed from the
 13 account established under section 9 of this chapter to the school
 14 corporation on the first day of each month of the school year.

15 (h) All distributions from an account established under section
 16 9 of this chapter shall be made by warrants issued by the auditor
 17 of state to the treasurer of state ordering the appropriate
 18 payments.

19 Sec. 11. (a) Using procedures provided under this chapter, the
 20 governing body of a school corporation may adopt an ordinance to
 21 enter into reciprocity agreements with the taxing authority of any
 22 city, town, municipality, county, or other similar local
 23 governmental entity of any other state. The reciprocity agreements
 24 must provide that the income of taxpayers is exempt from income
 25 taxation by the other local governmental entity to the extent that
 26 income of the residents of the other local governmental entity is
 27 exempt from the school option income tax in the adopting school
 28 corporation.

29 (b) A reciprocity agreement adopted under this section may not
 30 become effective until it is also made effective in the other local
 31 governmental entity that is a party to the agreement.

32 (c) The department shall approve the form and effective date of
 33 any reciprocity agreement described in this section.

34 Sec. 12. (a) All provisions of the adjusted gross income tax law
 35 (IC 6-3) concerning:

- 36 (1) definitions;
- 37 (2) declarations of estimated tax;
- 38 (3) filing of returns;
- 39 (4) deductions or exemptions from adjusted gross income;
- 40 (5) remittances;
- 41 (6) incorporation of the provisions of the Internal Revenue
- 42 Code;
- 43 (7) penalties and interest; and
- 44 (8) exclusion of military pay credits for withholding;

45 apply to the imposition, collection, and administration of a tax
 46 imposed under this chapter.

47 (b) The school option income tax is a listed tax for the purposes

1 of IC 6-8.1.

2 (c) Notwithstanding subsection (a), each employer shall report
3 to the department and the school corporation the amount of
4 withholdings attributable to each school corporation. This report
5 shall be submitted at the same time that the employer submits the
6 employer's other withholding report to the department.

7 Sec. 13. (a) Except as provided in subsection (b), if, for a
8 particular taxable year, a taxpayer is liable for an income tax
9 imposed by a school corporation located outside Indiana, that
10 taxpayer is entitled to a credit against the taxpayer's school option
11 income tax liability for that same taxable year. The amount of the
12 credit equals the amount of tax imposed by the other governmental
13 entity on income derived from sources outside Indiana and subject
14 to the school option income tax. However, the credit provided by
15 this section may not reduce a taxpayer's school option income tax
16 liability to an amount less than the taxpayer would have owed if
17 the income subject to taxation by the other governmental entity
18 had been ignored.

19 (b) The credit provided by this section does not apply to a
20 taxpayer to the extent that the other governmental entity provides
21 for a credit to the taxpayer for the amount of school option income
22 tax owed under this chapter.

23 (c) To claim the credit provided by this section, a taxpayer must
24 provide the department with satisfactory evidence that the
25 taxpayer is entitled to the credit.

26 Sec. 14. (a) If for a particular taxable year a resident taxpayer
27 is, or a resident taxpayer and the taxpayer's spouse who file a joint
28 return are, allowed a credit for the elderly or the totally disabled
29 under Section 22 of the Internal Revenue Code, the resident
30 taxpayer is, or the resident taxpayer and the taxpayer's spouse are,
31 entitled to a credit against the school option income tax liability for
32 that same taxable year. The amount of the credit equals the lesser
33 of:

34 (1) the product of:

35 (A) the credit for the elderly or the totally disabled for that
36 same taxable year; multiplied by

37 (B) a fraction, the numerator of which is the school option
38 income tax rate imposed against the resident taxpayer, or
39 against the resident taxpayer and the taxpayer's spouse,
40 and the denominator of which is fifteen-hundredths (0.15);

41 or

42 (2) the amount of school option income tax imposed on the
43 resident taxpayer, or on the resident taxpayer and the
44 taxpayer's spouse.

45 (b) If a resident taxpayer and the taxpayer's spouse file a joint
46 return and are subject to different school option income tax rates
47 for the same taxable year, they shall compute the credit under this

1 section by using the formula provided by subsection (a), except that
2 they shall use the average of the two (2) school option income tax
3 rates imposed against them as the numerator referred to in
4 subsection (a)(1)(B).

5 **Sec. 15. Notwithstanding any other law, if a school corporation**
6 **desires to issue obligations, or enter into leases, payable wholly or**
7 **in part by the school option income tax, the obligations of the**
8 **school corporation or any lessor may be sold at public sale in**
9 **accordance with IC 5-1-11 or at negotiated sale.**

10 **Sec. 16. A school option income tax imposed under this chapter**
11 **expires ten (10) years after its effective date."**

12 Page 6, line 29, after "(IC 6-3.5-8);" insert "**the school option**
13 **income tax (IC 6-3.5-9);"**

14 Renumber all SECTIONS consecutively.

(Reference is to HB 1420 as printed January 30, 2001.)

Representative Espich